

ARKANSAS SUPREME COURT

No. CR 05-1042

NOT DESIGNATED FOR PUBLICATION

ARCHIE ROSS
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered June 15, 2006

PRO SE MOTION FOR
RECONSIDERATION OF DISMISSAL
OF APPEAL [CIRCUIT COURT OF
CRITTENDEN COUNTY, CR 2005-89,
HON. DAVID N. LASER, JUDGE]

MOTION DENIED

PER CURIAM

The Crittenden County Circuit Court entered an order that found that appellant Archie Ross was convicted of certain criminal charges in West Memphis District Court on December 1, 2004, dismissed appellant's appeal of that conviction because that appeal had not been filed in the Circuit Court within 30 days as required by Inferior Ct. R. 9 and remanded to the district court to enforce the judgment. Appellant lodged an appeal of that order in this court.

Appellant, who was proceeding *pro se* and *in forma pauperis*, sought an extension of time to file the appellant's brief and access to a copy of the record to prepare the brief. We granted appellant access to the record and an extension, with the brief due on February 21, 2006. *Ross v. State*, CR 05-1042 (Ark. January 12, 2006) (*per curiam*). On February 28, 2006, appellant filed a *pro se* motion for access to a hearing transcript and to extend the time to file appellant's brief. On March 10, 2006, appellant filed a *pro se* motion for leave to file a belated brief. Because appellant

did not file his motion to extend the time to file his brief until after the date his brief was due, we denied the motion and dismissed the appeal.¹ *Ross v. State*, CR 05-1042 (Ark. April 6, 2006) (*per curiam*). Appellant now brings this motion for reconsideration of the dismissal of his appeal.

Appellant first argues in his motion that our previous order concerning access to the hearing transcript was confusing and that the date his brief was due should not have been calculated from the date of that order.² Regardless as to whether appellant understood our order, the order was exceedingly clear upon the date appellant's brief was due. As we noted in our opinion dismissing the appeal, appellant fails to explain how his lack of access to a more complete record would have prevented him from filing for an extension of time prior to the date his brief was due.

Appellant asserts that his indigency caused the dismissal, or that his *pro se* status has caused prejudice that is responsible for the decision to dismiss the appeal. Yet, as our opinion stated, it was appellant's failure to follow our rules of procedure that was the basis for that decision. Appellant would not be required to pay costs were he to have filed for a writ of *certiorari* to bring up the transcript of the hearing he requested. Nor would appellant have been required to pay any costs in order to file for an extension. But, his failure to file for an extension or to file his brief within the required time, without stating any good cause for that failure, must result in dismissal of his appeal.

Appellant has stated no such good cause in his previous motion or in this motion for

¹A motion to extend the brief time tendered after the date to file a brief has passed would not ordinarily be filed. An appellant is required to seek that relief, instead, through a motion for belated brief. Here, appellant also sought other relief in the motion. Because the motion sought other relief, and, in addition, appellant did file a motion for belated brief, we permitted the tendered motion to extend the brief time to be filed.

²Appellant has captioned his motion, and included references in his motion, as if the proceedings in this court were before the Arkansas Court of Appeals, which is not the case.

reconsideration. Accordingly, as appellant has stated no reason to revisit our previous decision on this issue, we deny his motion for reconsideration.

Motion denied.